

the owners of slaves who shall be executed for capital offences; read first time.

On motion of Mr. Burleson, the Senate adjourned until Monday morning 10 o'clock.

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MONDAY, 10 o'clock, A. M.  
January 17th, 1848.

Senate met—roll called—the following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Bache, Burleson, Clark, Cuny, Dancy, Gage, Grimes; Jewett, McRea, Navarro, Parker, Perkins, Phillips, Wallace, Williams and Wooten—quorum present.

The Journal of the preceding day was read and adopted.

Mr. Clark Chairman of the committee on the Judiciary made the following report.

Committee Room  
January 17th, 1848.

*Hon. JOHN A. GREER,*  
*President of the Senate:*

The Judiciary committee to whom was referred "an act to incorporate the Union Marine and Fire Insurance Company" have had the same under consideration and propose the following amendments thereto, the adoption of which they recommend.

First amendment.

Strike out all after the word "estate" in the 13th line of first section, and insert, "exceeding in value ten thousand dollars."

Second amendment.

Insert after the word "transferable" in the third line of sixth section, the words, "upon the books of said company." With

these amendments, the majority of the committee, direct me to return said bill to the Senate, and recommend its passage.

EDWARD CLARK,  
Chairman.

The committee on the Judiciary to whom was referred a resolution requiring them to take into consideration that part of the Governor's message relating to the decisions of the Supreme Court of the State; reported the following Joint Resolution, viz:

Joint Resolution authorizing and requiring the Governor to subscribe for three hundred copies of the reports of decisions of the Supreme Court; which was read first time.

Mr. Clark, Chairman of the committee on the Judiciary made the following report,

Committee Room,  
January 7th, 1848.

Hon. J. A. GREER,  
*President of the Senate :*

The Judiciary committee have considered "an act prescribing the proof necessary for the heirs or legal representatives of those who fell under the command of Fannin, Travis, Grant and Johnson to obtain their headright certificates" and herewith return the same, with one amendment only, viz: after the word "claimants" in the seventh line of first section, insert "approved February 4th, 1841" with this amendment the Committee recommend the passage of the bill.

The amendment is proposed by the committee, in view of the fact that more than one law with the same caption was passed by the Congress of the late Republic of Texas.

EDWARD CLARK,  
Chairman.



Mr. Gage, Chairman of the select committee to which was referred a resolution in relation to ministerial officers acting in Judicial capacities, made the following report.

Senate Chamber,  
January 17th, 1848.

HON. J. A. GREER,  
*President of the Senate.*

The select committee to which was referred a resolution of the Senate which reads as follows, to-wit:

*"Resolved by the Senate, that a ministerial officer has no right to act in a Judicial capacity; that when money is appropriated by law, the Treasurer is bound by his oath of office, to pay drafts under the law so passed, until the appropriation is exhausted;"* beg leave to report; that they can see no object to be gained by the adoption of such a resolution by the Honorable Senate, as it would not have the weight and bearing of a law, nor do they deem that a further law upon the subject is necessary, for it is considered by your committee, that the laws defining the duties of the several ministerial officers of our State Government is sufficiently explicit to govern them in all ordinary cases. In cases of doubtful authority, they can, at all times, refer to the Attorney General of the State, for his opinion to govern them in their acts.

The committee believe, that this resolution takes its rise from the action of the Treasurer at the adjournment of the last Legislature, in making a pro-rata distribution of the money then in the Treasury, amongst the several claimants under the various appropriations made by law, the committee have made it their duty to enquire into the situation of the Treasury, at the time mentioned, and also, the course pursued by the Treasurer, and find that the condition of the Treasury was such as to demand the exercise of prudence, and that the expediency of the course, we think cannot be doubted; that the Treasurer exercised no Judicial authority in the plan followed by him, it being a simple recommendation acquiesced in by those whom it effected. At the time the Comptroller issued the drafts it was discretionary with those who received them, to do so, or to demand and receive, (had the money been in the



Treasury) from the Treasurer the full amount due them; the committee are assured that the Treasurer does not believe that he has the right to make any *positive pro rata* distribution of money. Let the Treasury be ever so much embarrassed; and they consider the *pro rata* distribution mentioned, was not forced by the Treasurer, but only a recommendation which was sanctioned and followed by the members of the Legislature and other claimants upon the Treasury; resulting as your committee believes in great relief to the Treasury at that time and in good to the State, by the collection upon the drafts issued, of money, small sums of money in the hands of county officers, which might not have come into the Treasury, to this date, owing to the difficulty of transmitting, and lastly in general satisfaction and accommodation to those immediately interested. The committee find that similar discretionary and prudential authority was frequently required to be exercised by those having charge of the Treasury of the late Republic, in order to sustain it, and keep in operation the wheels of Government; and that no harm has resulted therefrom, but that the patriotism of our citizens has generally approved the course in submitting thereto, in preference to making pre-emptory demand for their just dues, upon a usually exhausted Treasury—the committee trust and believe the condition of our finances in future will be such as not to require a similar course again, but should it be the case, they hope that all will willingly make a small sacrifice (if such it should be) in assisting the Treasury officers to sustain the same. The committee for these reasons think it inexpedient to pass the resolution, and therefore recommend its rejection.

D. GAGE, Chairman.

Mr. Wallace dissented from the above report.

Mr. Williams offered the following resolution.

*Resolved*, That the committee on Indian affairs be instructed to inquire into the expediency of memorializing the Congress of the United States to establish a line of Military Posts, from Fort Washita to Passo de Norte; establish that line as the temporary Indian boundary, and to remove all Indians now in Texas, north of the same."

Adopted

Mr. Phillips offered the following resolution.



*"Resolved, That a committee of three be appointed to examine into the condition of the Adjutants General's Office, and report thereon to the Senate, at as early a day as possible.*

*Adopted.*

Messrs. Phillips, McRae and Brashear were appointed said committee.

Mr. Jewett introduced Joint Resolution requiring the Attorney General to investigate the condition of the title to the various islands within the limits of Texas, and if it be expedient, to cause legal proceedings to be instituted against persons, claiming the same adversely to the State—read first time.

Mr. Wallace introduced a bill to be entitled an act to allow bonds, promissory notes, drafts and other claims for money against the estates of deceased persons to be used as set-offs in actions at law, and in equity, brought by executors or other representatives against the owner thereof. Read first time.

Mr. Cuny offered the following resolution :

*"Resolved, by the Senate, That hereafter when any firewood shall be ordered for the use of the Senate, the person hauling it shall deliver it to the Sergeant-at-arms, or Door-keeper, whose duty it shall be to measure or cause the same to be measured, and to receipt therefor—and no fire wood shall be paid for, unless in accordance with the provisions of this resolution."*

*Adopted.*

Mr. Jewett offered the following resolution :

*"Resolved, That the Committee on Internal Improvements, be instructed to inquire into the expediency of incorporating a Joint Stock Company, for the purpose of removing obstructions in, and rendering navigable the Trinity river, and report thereon."*

*Adopted.*

Mr. Cuny introduced a bill to be entitled an act to repeal the 12th section of an act entitled an act regulating estrays, approved, Dec. 22d, A. D. 1836—read first time.

Mr. Wallace introduced a bill to be entitled an act to provide for the collection of taxes due the late Republic and present State of Texas—read first time.

The Committee on the Judiciary, to whom was referred the communication of His Excellency, J. Pinckney Henderson, on the subject of the appointment of a special Judge of the Supreme Court, report the following bill :



A bill to be entitled an act relative to Special Judges of the Supreme Court—which was read first time.

On motion of Mr. Wallace, the petition of William B. Andrews, was taken up and placed among the orders of the day.

The Committee on Engrossed Bills, reported the bill to be entitled "an Act to amend the third section of an act entitled an act concerning slaves"—approved February 5th, 1840—correctly engrossed.

The Senate proceeded to the orders of the day.

The Senate went into Executive Session upon nominations for Notaries Public.

The Senate having disposed of the business before them in their executive capacity,

A bill to be entitled an act to amend the third section of an act entitled "an Act concerning slaves"—approved February 5th, 1840—read third time and passed.

Joint Resolution to provide for the settlement of the accounts of E. W. Moore, Post Captain, commanding the late Navy of Texas, was read. Mr. Dancy offered the following amendment—"Provided further, that nothing in this act shall be construed to place the foregoing claim upon a better footing than the unpaid audited claims of the late Republic of Texas, and this said claim shall constitute a part of the unpaid debt of Texas, subject to the future action of the Legislature of the State."

On motion of Mr. Jewett, the resolution and amendment was made the order of the day for to-morrow, 11 o'clock.

Joint Resolutions for the relief of persons who furnished supplies for the late Navy of Texas, was read. Mr. Dancy offered the following amendment—"Provided, further, that nothing in this act shall be construed to place the foregoing claim upon a better footing than the unpaid audited claims of the late Republic of Texas, and the said claim shall constitute a part of the unpaid debt of Texas, subject to the future action of the Legislature of the State."

On motion of Mr. Brashear, the resolution and amendment were made the order of the day for to-morrow, 11 o'clock.

A communication was received from His Excellency the Governor, requesting to withdraw the nomination of J. Wilson Copes, for Notary Public for Harris. Request granted.

The report of the Committee on Internal Improvements reporting substitute for a bill to be entitled an act to amend the



11th section of an act to incorporate the Brazos Canal Company—read and adopted. Bill read, and on motion of Mr. Perkins, laid on the table.

A bill to be entitled an act defining the northern boundary line of Collin county—read second time, and on motion of Mr. Williams, referred to the Committee on Counties and County Boundaries.

A bill to be entitled an act to define the county boundaries of Goliad county—read second time and passed to third reading.

A bill to be entitled an act creating a lien on domestic vessels, for supplies and materials furnished them, and for repairs and labor done thereon—read second time, and on motion of Mr. Cuny, was referred to the Committee on the Judiciary.

A bill to be entitled an act to provide a compensation for the owners of slaves who shall be executed for capital offences—read second time, and on motion of Mr. Clark, referred to the Committee on State Affairs.

A bill to be entitled an act to amend an act to establish the several Judicial districts of the District Courts—read second time, and on motion of Mr. Clark, referred to the select committee raised on Judicial Districts.

Report of the Committee on the Judiciary, on the petition of William B. Andrews, together with the petition, were, on motion of Mr. Wallace, referred to the Committee on Private Land Claims.

Mr. Cuny was excused from serving on the Committee to whom was referred the petition of Stewart Perry.

On motion of Mr. Brashear, the Senate adjourned until 10 o'clock, to-morrow morning.

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Tuesday, 10 o'clock, A.M. }  
January 18th, 1848. }

Senate met—roll called. The following Senators answered to their names :

Messrs. Abbott, Brashear, Bache, Clark, Dancy, Gage, Grimes,